

James S. Greenan (SBN 53648)
jgreenan@gpsllp.com
Nelson Hsieh (SBN 177128)
nhsieh@gpsllp.com
Yen Chau (SBN 221087)
ychau@gpsllp.com
GREENAN, PEFFER, SALLANDER & LALLY LLP
Post Office Box 10
6111 Bollinger Canyon Road, Suite 500
San Ramon, California 94583
Telephone: (925) 866-1000
Facsimile: (925) 830-8787

Attorneys for Defendants ST. PAUL FIRE &
MARINE INSURANCE CO. and
GREENAN, PEFFER, SALLANDER & LALLY LLP

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MANI SUBRAMANIAN, as an individual and)
citizen of Washington, and as a derivative)
action plaintiff,)

Plaintiff,)

vs.)

ST. PAUL FIRE & MARINE INSURANCE)
COMPANY, a Minnesota Corporation, and)
QAD, INC., a Delaware Corporation and)
principal place of business in California, and)
ARTHUR ANDERSON LLP, a limited)
liability partnership headquartered in Chicago,)
Illinois, and ANDERSEN WORLDWIDE SC,)
a Societe Cooperative headquartered in)
Geneva, Switzerland, and JOHN DOORDAN,)
an individual and citizen of California, and)
LAIFOON LEE, an individual and Citizen of)
California, and ROLAND DESILETS, an)
individual and citizen of New Jersey, and)
WILLIAM D. CONNELL, an individual and)
citizen of California, and GREENAN)
PEFFER, SALLANDER AND LALLY LLP, a)
limited liability partnership headquartered in)
California, and RANDALL WULFF, an)
Individual, and DOES 1-50, inclusive,)

Defendants.)

Case No. C08-1426 VRW

**[PROPOSED] ORDER GRANTING ST.
PAUL'S MOTION TO DISMISS THE
COMPLAINT OF MANI SUBRAMANIAN
FOR:**

- 1. SET ASIDE JUDGMENT AND ORDER (FRCivP rule 60(d)(1);**
- 2. CIVIL RICO (18 U.S.C. §1964 et seq.);**
- 3. FRAUD AND CONSPIRACY TO FRAUD;**
- 4. UNFAIR COMPETITION;**
- 5. VIOLATION OF CONSTITUTIONAL RIGHTS (42 U.S.C. §1983).**

Date: October 9, 2008

Time: 2:30 p.m.

Dept.: Courtroom 6

The Honorable Vaughn R. Walker

Greenan,
Peffer,
Sallander &
Lally LLP

1 Based upon the motion of St. Paul Fire & Marine Insurance Company (“St. Paul”), and
 2 the written submissions and oral argument of the parties, this Court grants St. Paul’s motion to
 3 dismiss the Complaint of Mani Subramanian 1) to Set Aside Judgment and Order; 2) Civil Rico;
 4 3) Fraud and Conspiracy to Fraud; 4) Unfair Competition; and 5) Violation of Constitutional
 5 Rights without leave to amend.

6 The alleged conduct of St. Paul does not “show an unconscionable plan or scheme which
 7 is designed to improperly influence the court in its decision.” *England v. Doyle*, 281 F.2d 304,
 8 309 (9th Cir. 1960). Nor is the conduct of St. Paul egregious and attacking the judicial machinery
 9 itself. *Travelers Cas. & Sur. Co. v. Crow & Sutton Associates*, 228 F.R.D. 125 (N.D. NY 2005).

10 The actions for Civil Rico, Fraud and Conspiracy to Fraud, Unfair Competition and
 11 Violation of Constitutional Rights all must be dismissed as they are all barred by res judicata,
 12 claims splitting and *Noerr-Pennington* immunity. This Court grants St. Paul’s Request for
 13 Judicial Notice.

14
 15 IT IS ORDERED.

16 Dated: _____

 VAUGHN R WALKER
 United States District Chief Judge